

OFFICIAL GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Revenue Department

Notification

No. 22/160/88-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose, viz. Land Acquisition for widening and improvement of Curcho-rem-Sanguem road.

Now, Therefore, the Government hereby notifies, under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this Notification, will, under clause (seventh) of section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of section 3 of the said Act, the Deputy Collector & S. D. O. Quepem to perform the functions of a Collector South Goa District, Margao under the said Act in respect of the said land.

5. The Government also authorises, under sub-section (2) of section 4 of the said Act, the following officers to do the acts specified therein in respect of the said land.

1. The Collector, South Goa District, Margao.
2. The Dy. Collector & S. D. O., Quepem.
3. The Executive Engineer, W. D. XVIII (R & B) P.W.D., Ponda, Goa.
4. The Director of Land Survey, Panaji.

5. The Government also authorise, under sub-section (2) in the office of the Dy. Collector & S. D. O., Quepem for a period of 30 days from the date of publication of this Notification in Official Gazette.

SCHEDULE

(Description of the said land)

Taluka: Quepem

Village: Cacoda

Survey No. Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3
5/ 6 part	H: Shri Kashinath G. Sinai Kakodkar.	50.00
"/ 3 part	H: Shri Augusto Esteves.	150.00
"/ 1 part	H: Shri Anastacia D'Souza.	120.00
"/ 3 part	H: Government.	20.00
"/ 5 part	H: Rama Yeku Sawant.	240.00
10/ 5 part	H: — do —	115.00
"/ 8 part	H: Ramesh B. Sawant.	65.00
"/ 10 part	H: Shree Mahadev Devasthan. T: Nagnesh Sagun Shirodkar.	220.00
"/ 9 part	H: Shree Mahadev Devasthan. T: Shri Ramesh Dattaram Dessai.	80.00
"/ 12 part	H: Shree Mahadev Devasthan. T: Saunlo Naik Bandekar.	180.00
"/ 13 part	H: Shree Mahadev Devasthan. T: Jangdo Naik Kakodkar.	135.00
"/ 14 part	H: Shree Mahadev Devasthan. T: Shri Baburao Naik Bandekar.	60.00
122/ 6 part	H: Shree Mahadev Devasthan. T: Shri Babusoheb Kust Naik.	95.00
"/ 7 part	H: Shri Mahadev Devasthan. T: Shri Vishnu Tilu Naik.	135.00
"/ 8 part	H: Shree Mahadev Devasthan. T: Shri Gopi Shedu Vasth.	75.00
"/ 16 part	H: Comunidade of Cacora. T: 1. Vishnu Bhikaro Sawant. 2. Ramesh Bhikaro Sawant.	235.00
"/ 17 part	H: Hari Kurado. T: Shri Suresh Vithoba Sawant.	620.00
138/ 5 part	H: Shri Kurado. T: Vithoba Sawant.	80.00
"/ 6 part	H: Shrivnath Sanvordekar. T: Shri Rama Narayan Sawant.	45.00
"/ 11 part	H: Sanvordekar. T: Mohan Laximan Porab.	55.00
"/ 12 part	H: Shri Sanvordekar. T: Shri Vijaya Naik.	45.00
"/ 16 part	H: Shri Jivaji Sanvordekar. T: Shri Krishna Bhikaro Naik.	95.00
"/ 7 part	H: Shri Santoba Sanvordekar. T: Shri Pundalik Tilu Naik.	100.00
138/ 20 part	H: Shri Vino Karmali. T: Shri Vino Karmali.	105.00
"/ 21 part	H: Shri Venkatesh Kurchodkar. T: Shri Antonio Barganza.	30.00
"/ 22 part	H: Venkatesh Kurchodkar. T: Shri Vijaya Naik.	70.00
"/ 27 part	H: Shri Sarvotham Kurchodkar. T: Shri Vijaya Naik.	8.00
"/ 28 part	H: Shri Bhagu. T: Smt. Rita Mande.	92.00
141/ 5 part	H: Comunidade of Cacora. T: Shri Govind Murari Sawant.	25.00
"/ 9 part	H: Smt. Manik Joshi. T: Shri Vitu B. Sawant.	30.00
"/ 10 part	H: Shri Rama Sada Porob. T: Shri Rama Sada Porob.	20.00
"/ 11 part	H: Comunidade of Cacora.	28.00

1	2	3	1	2	3
			Taluka: Sanguem		
			Village: Cotarli		
"/ 18 part	T: Shri Anant Bhiku Prabhu. H: Shri Prakash Shanu Prabhu Dessai.	100.00	29/ 1 part	H: Shri Vasant Nadkarni.	460.00
115/ 1 part	T: Shri Ramu Sada Porob.	430.00	26/ 1 part	H: Shri Dinanath Nadkarni.	95.00
142/ 1 part	H: Shri Purushottam Vithal Porob Dessai.	195.00	"/ 2 part	H: 1. Shri Bhaskar Sadashiv Nadkarni. 2. Shri Sadshiv Baskar Nadkarni. 3. Shri Sunil Bhaskar Nadkarni.	260.00
"/ 2 part	H: Smt. Marry Fernandes. T: Shri Shantaram Sanvlo Naik.	70.00	"/ 3 part	H: Government.	130.00
"/ 3 part	H: Smt. Marry Fernandes. T: Shri Krishna Ganesh Naik.	7.00	27/ 1 part	H: 1. Shri Dinanath Nadkarni. 2. Shri Narshiva Nadkarni.	90.00
"/ 4 part	H: Smt. Marry Fernandes. T: Shantaram Sanvlo Naik.	30.00	"/ 2 part	H: 1. — do —	130.00
"/ 6 part	H: Smt. Marry Fernandes. T: Shantaram Sanvlo Naik.	5.00	"/ 4 part	H: — do —	30.00
"/ 7 part	H: Smt. Marry Fernandes.	7.00	"/ 5 part	H: Dr. Purshottam Vithal Prabhu Dessai.	30.00
144/ 1 part	H: Shri Vinayak Gopi Karmali.	425.00	"/ 6 part	H: Shri Murari Vithal Sanvordekar.	20.00
"/ 10 part	H: Comunidade of Cacora. Gurudas Timblo. Pandurang Timblo.	465.00	"/ 7 part	H: Shri Yeshwant Ramnath Mopcar.	168.00
"/ 13 part	H: Road.	106.00	"/ 8 part	H: Shri Balchandra Nadkarni.	80.00
"/ 20 part	H: Anil Hari Prabhu Dessai.	300.00	"/ 9 part	H: Shri Yeshwant Ramnath Mopcar.	55.00
"/ 11 part	H: Shri Shankar Alvi.	12.00	"/ 10 part	H: Shri Purushottam Vithal Prabhu Dessai.	36.00
145/ 17 part	H: Comunidade of Cacora.	5.00	29/ 17 part	H: 1. Shri Dinanath Nadkarni. 2. Shri Narshiva Nadkarni. T: Shri Xavier Vaz.	90.00
"/ 18 part	H: 1. Sabidanand Kacodkar. 2. Sachitanand Shripad Kakodkar.	21.00	"/ 18 part	H: 1. Dinanath Nadkarni. 2. Narshiva Nadkarni.	20.00
"/ 21 part	H: Comunidade of Cacora.	255.00	"/ 10 part	H: Shri Dinanath Nadkarni. Shri Narshiva Nadkarni.	90.00
"/ 20 part	H: Shree Mahadev Devasthan.	380.00	"/ 26 part	H: Narshiva Shivram Nadkarni.	25.00
147/ 21 part	H: Shri Vasant P. Dessai. T: Esteva Fernandes.	30.00	27/ 34 part	H: 1. Prakash Dattaram Nadkarni. 2. Shankar Dattaram Nadkarni. 3. Prabhakar Nadkarni. 4. Shivaji Datta Nadkarni. 5. Uday Nadkarni.	1375.00
"/ 22 part	H: Vasant P. Dessai. T: Nicolao Fernandes.	18.00	North: Road and village boundary of Cacoda. Village boundary of Sanguem Town and S. No. 29.		
"/ 23 part	H: Vasant P. Dessai. T: Custofio Fernandes.	20.00	South: S. No. 25, Road & S. No. 27.		
"/ 25 part	H: Shri Vasant P. Dessai. T: Esteva Fernandes.	2.00	East: Village boundary of Cacoda village.		
"/ 28 part	H: Shri Vasant P. Dessai. T: Shri Yesso P. Dessai. T: Esteva Minguel Fernandes.	240.00	West: Village boundary of Cacoda village, road, S. No. 26, 27 & S. No. 29.		
148 part	H: Comunidade of Cacora.	520.00			
85 part	H: Comunidade of Cacora. Shri Govind Guno Dessai.	145.00			
84/ 2 part	H: Shri Govind Mahadev Karmali.	175.00			
"/ 1 part	H: Shri Francisco Figueiredo.	52.00			
82/ 1 part	H: Shri Francisco Fernandes.	435.00			
81/ 1 part	H: — do — T: Shri Jose Fernandes.	785.00			
"/ 2 part	H: Shri Francisco Figueiredo. T: Shri Antonio Jose Mesquita.	365.00			
"/ 3 part	H: Shri Francisco Figueiredo. T: Shri Augustinho Costa.	255.00			
"/ 4 part	H: Francisco Figueiredo. T: Shri Antonio Jose Mesquita.	115.00			
"/ 5 part	H: Francisco Figueiredo. T: Augustinho Costa.	33.00			
"/ 7 part	H: Francisco Figueiredo. T: Shri Jose Fernandes.	120.00			
"/ 8 part	H: Francisco Figueiredo. T: Costao Piedade Costa.	80.00			
"/ 9 part	H: Francisco Figueiredo. T: Smt. Cicilia Rodrigues.	135.00			
161/ 2 part	H: Shri Ramakant R. S. Kakodkar.	380.00			
162/ 1 part	H: Shri Janu Kurchodkar.	470.00			
"/ 4 part	H: Shri Narotham Niru Kakodkar.	12.00			
163/ part	H: 1. Janardhan Kurchodkar. T: Navnath Yeshwant Naik.	80.00			
162/ 3 part	H: Narotham Niru Kakodkar.	8.00			
165/ 1 part	H: Shri Narotham Kakodkar.	810.00			
78/ 7 part	H: Comunidade of Cacora. T: Shri Saunlo Fondu Gaonkar.	35.00			
77/ 3 part	H: Comunidade of Cacora.	1000.00			
North: Village boundary of Curchorem village.					
South: Village boundary of Cotarli village.					
East: Road, S. No. 11/1, S. No. 113/4, S. No. 85, 81, 82, 80, 78 & 77.					
West: Road, S. No. 6, 5, 10, 122, 138, 141 to 145, 147, 148, 151, 152, 156, 157, 161 to 163, & 165.					
			Taluka: Sanguem		
			Village: Sanguem		
			35 part	H: Shri Devu Nadkarni.	223.00
			34/ part	H: Jose D'Lobo. T: 1. Shri Minguel Mascarenhas. Shri Antonio Lima. Pedro Carvalho.	505.00
			149/ 4 part	H: Andrew Fernandes.	36.00
			33/ 1 part	H: Smt. Jaya Ragoba S. Nadkarni. Shigaji Datta S. Nadkarni. Jose D'Lobo. Manguesh P. Sinai Nadkarni.	790.00
			150/ 2 part	H: Shri Manguesh Sanjigui.	12.00
			"/ 3 part	H: Shri Manuel Fernandes.	110.00
			151/ 1 part	H: Smt. Chandrabai Sanguekar.	69.00
			"/ 2 part	H: Smt. Maria Damiao Costa.	12.00
			33/ 3 part	H: Shri Laxman Gopi Naik.	33.00
			32/ 2 part	H: Smt. Filomena Faleiro.	6.00
			31 part	H: Shri Baskar S. Nadkarni.	275.00
			30 part	H: Shri Uday Nadkarni.	230.00
			154/ 1 part	H: Dr. Shankar D. Nadkarni.	16.00
			"/ 2 part	H: 1. Smt. Prafula Chandrakant Raikar. 2. Shri Prakash D. Nadkarni.	24.00
			"/ 3 part	H: 1. Smt. Prafula Chandrakant Raikar. 2. Shri Prakash D. Nadkarni.	12.00
			"/ 4 part	H: Shri Prakash D. Nadkarni.	40.00
			"/ 5 part	H: Shri Caitano Gonsalves.	47.00
			"/ 6 part	H: Shri Marciano Rodrigues.	45.00
			"/ 7 part	H: Government.	20.00
			"/ 8 part	H: Shri Vincente Rodrigues.	90.00
			"/ 9 part	H: Shri Dinanath Nadkarni.	3.00
			"/ 10 part	H: Sanguem Municipality.	4.00
			"/ 11 part	H: Shri Dinanath Nadkarni.	518.00
			"/ 12 part	H: Shri Shivaji Datta Sinai Nadkarni.	120.00
			154/ 13 part	H: 1. Shri Shankar D. Nadkarni. 2. Shri Prakash D. Nadkarni.	413.00

1	2	3
	North: Road, village boundary Cotarli village, S. No. 35, 34, 33, 32, 31 & 30.	
	South: Roads, S. No. 149, 150, 151 & 154.	
	East: Road, S. No. 34, 35, 33, 31, 30, 151, 154 & River.	
	West: Road, village boundary of Cotarli village, S. No. 150, S. No. 33, 154, 149.	
Total		19,393.00

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 6th December, 1988.

Notification

No. 22/101/87-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of approaches to Juva, Revora foot Bridge at Nadora.

Now, Therefore, the Government hereby notifies, under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this Notification, will, under clause (seventh) of section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints, under clause (c) of section 3 of the said Act, the Land Acquisition Officer, P.W.D. (Cell) Altinho, Panaji to perform the functions of a Collector North Goa District, Panaji under the said Act in respect of the said land.

5. The Government also authorise, under sub-section (2) of section 4 of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector, North Goa District, Panaji.
2. The Land Acquisition Officer, P.W.D. (Cell) Altinho, Panaji.
3. The Executive Engineer, Works Division II (R & B) P.W.D. Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Land Acquisition Officer, P.W.D. (Cell) Altinho, for a period of 30 days from the date of publication of this Notification in Official Gazette.

SCHEDULE (Description of the said land)

Taluka: Bardez		Village: Revora
Survey No. Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3
12/10 part	Shantabai G. Mambre. North: River, Road. South: S. No. 12/10. East: Road. West: S. No. 12/10.	210.00
Taluka: Bardez		Village: Nadora
65/1 part	Pandharinath Kalangutkar.	300.00
"2 part	Venkatesh L. Bandekar.	25.00
	North: (Existing Road) S. No. 65/1, 2. South: River. East: S. No. 65/1, 2. West: S. No. 65/1.	
Total		535.00

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 29th December, 1988.

Notification

No. 22/78/87-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for widening of access to the beach in front of Tourist Resort at Calangute.

Now, therefore, the Government hereby notifies, under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this Notification, will, under clause (seventh) of section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints, under clause (c) of section 3 of the said Act, the Deputy Collector (S.D.O.) Mapusa to perform the functions of a Collector North Goa District, Panaji under the said Act in respect of the said land.

5. The Government also authorise, under sub-section (2) of section 4 of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector, North Goa District, Panaji.
2. The Dy. Collector, S.D.O., Mapusa.
3. The Director of Tourism, Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Deputy Collector, S.D.O., Mapusa for a period of 30 days from the date of publication of this Notification in Official Gazette.

SCHEDULE

(Description of the said land)

Taluka: Bardez

Village: Calangute

Survey No. Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3
176/1 part	Shri Martinho Cordeiro.	500.00

Boundaries:

North: Road.

South: S. No. 176/1.

East: Road.

West: Arabian Sea.

Total 500.00

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 16th January, 1989.

Notification

No. RD/TNC/BND/280/67/333

In pursuance of the proviso to sub-section (3) of Section 26 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the Government hereby specify the following bund/s prescribed in the schedule appended hereto as protective bund/s for the purpose of the said proviso:—

SCHEDULE

Sr. No.	Name of the bund	Village	Taluka	Approximate area protected (in Hectares)	Description of the bund
1	2	3	4	5	6
	Cantor Bund	Carambolim	Tiswadi	4 hectare direct & 200 hectare indirect	The bund is starting from the paddy field "Cantor" and belonging to Shri Govind M. Karmalkar and others and ending with the continuation bund of Daddo Cantor and running marginal to the creek of the Cumbarjua canal.

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 27th December, 1988.

Notification

No. RD/TNC/BND/280/67-343

In pursuance of the proviso to sub-section (3) of Section 26 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the Government hereby specify the following bund/s prescribed in the schedule appended hereto as protective bund/s for the purpose of the said proviso:—

SCHEDULE

Sr. No.	Name of the bund	Village	Taluka	Approximate area protected (in Hectares)	Description of the bund
1	2	3	4	5	6
	Khandiwada	Curchorem	Salcete	150 Ha.	The approach bund and bandhara cum sluice gate runs across the creek of River Zuari and protects the paddy fields namely "Surla Xet" belonging to the Comunidade of Kakoda. It runs at a distance of 20 m. parallel to the Railway bridge at "Khandiwada" at Curchorem, Quepem-Goa.

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 27th December, 1988.

Notification

No. RD/TNC/BND/280/67/(341)

In pursuance of the proviso to sub-section (3) of Section 26 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the Government hereby specify the following bund/s prescribed in the schedule appended hereto as protective bund/s for the purpose of the said proviso:—

SCHEDULE

Sr. No.	Name of the bund	Village	Taluka	Approximate area protected (in Hectares)	Description of the bund
1	2	3	4	5	6
	Birkhasan Xet Chandor and Igorjechem Bhat		Salcete	40 Ha.	The bund lies between property Dr. Ivan Chagas Silva of Girdolim on the West and Shri Caitan Tales of Chandor on the East. The bund 50 m. long runs marginal to creek of Chandor river.
	Mundem Ad	Chandor	Salcete	4 Ha.	The bund lies between property of late Shri Linu Fernandes on East and late Shri Aneceto on the West. The bund admeasuring 30 m. runs marginal to the creek of Chandor.

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 27th December, 1988.

Public Health Department

Order

No. 8/36/88-II/PHD

Read: Memorandum No. 5-5-81-PHD/I/Part II dated 1-12-88.

On the recommendation of the Departmental Selection Committee the Governor of Goa is pleased to appoint Dr. Bhaviesh R. Shah to the post of Demonstrator in Biochemistry Goa Medical College in the pay scale of Rs. 2200-75-2800-EB-100-4000 purely on ad-hoc basis with immediate effect initially for a period of six months, subject to the conditions stipulated in the Memorandum cited above.

2. This appointment shall not bestow on Dr. Shah a claim for regular appointment and the service rendered on ad-hoc basis in the grade will not count for the purpose of seniority in the grade and for promotion to the next higher grade.

3. This appointment is made against the post of Demonstrator held by Dr. (Mrs.) Neena Kharangate who is promoted.

4. This appointment is subject to his being declared fit by the Medical Board of Goa Medical College, Panaji, and verification of his antecedents and character.

By order and in the name of the Governor of Goa.

L. J. Menezes Pais, Under Secretary (Health).

Panaji, 13th December, 1988.

Department of Labour

Order

No. 28/49/88-ILD

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. McDowell and Company Limited, Bethora and their workmen represented by the Goa Trade and Commercial Workers' Union in respect of the matter specified in the Schedule annexed hereto (hereinafter referred to as the 'said dispute');

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter

called the 'said Act'), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa, Daman and Diu at Panaji-Goa, constituted under section 7-A of the said Act.

SCHEDULE

"Whether the action of the management of M/s. McDowell and Company Limited, Bethora in terminating the services of their workman Shri Narayan Kurtlikar with effect from 19-8-1986 is legal and justified?

If not, to what relief the workman is entitled?

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Labour).

Panaji, 22nd December, 1988.

Order

No. 28/1/79-ILD(Part)

Whereas by Government Order No. 28/1/79-ILD(Part) dated 24-5-1982 (hereinafter called the 'said order'), the industrial dispute (hereinafter called the 'said dispute'), between the Management of M/s Sociedade de Fomento Industrial Pvt. Ltd., Margao Goa and their workman Mrs. Terezinha D'Silva, H. No. 56, Orlim, Salcete-Goa was referred for adjudication to the Industrial Tribunal, Goa, Daman and Diu in terms of clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947 (Central Act 14 of 1947) (hereinafter called the 'said Act');

And whereas in the said Order the Fomento Employees' Union, 354, Comba, Margao-Goa representing the workman was not impleaded as a party to the said dispute;

And whereas the Government of Goa considers it necessary to implead the said Fomento Employees' Union as a party to the said dispute.

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the said Act, the Government of Goa hereby amends the said order as follows:—

In the said Order, for the words and figures "Mrs. Terezinha D'Silva, H. No. 56, Orlim, Salcete Goa", the words and figures "Mrs. Terezinha D'Silva, Steno typist represented by Fomento Employees' Union, 354, Comba, Margao" shall be substituted.

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Labour).

Panaji, 30th December, 1988.

Order
No. 28/17/88-ILD

Whereas the Government of Goa, is of the opinion that an industrial dispute exists between the management of M/s. The Madgaon Urban Co-op. Bank Limited, Margao and their workman Miss Amita S. Sardesai in respect of the matter specified in the Schedule annexed hereto (hereinafter referred to as the 'said dispute');

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947 (Central Act 14 of 1947), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa, Daman and Diu at Panaji Goa, constituted under section 7-A of the said Act.

SCHEDULE

"Whether the action of the management of M/s. The Madgaon Urban Cooperative Bank Limited, Margao, in terminating the services of Miss Amita S. Sardesai with effect from 5-7-1986, is legal and justified;

If not, to what relief the workman is entitled?"

By order and in the name of the Governor of Goa.

L. J. Menezes Pais, Under Secretary (Labour).

Panaji, 12th January, 1989.

Order
No. 28/41/88-ILD

Whereas an industrial dispute is purported to exist between the management of M/s. Plast-o-Pack, C-1, Corlim Industrial Estate and their workmen represented by the Goa Trade and Commercial Workers' Union, Velhos Building, 2nd floor, Panaji, Goa (hereinafter called the 'said parties'), in respect of the matter specified in the Schedule annexed hereto (hereinafter referred to as the 'said dispute');

And whereas in a Memorandum of settlement under sub-section (3) of section 12 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter called the 'said Act'), the said parties had agreed to jointly apply for reference of the said dispute to the Industrial Tribunal;

And whereas the said parties have jointly applied in the prescribed manner for a reference of the said dispute to the Industrial Tribunal in terms of sub-section (2) of section 10 of the said Act;

And whereas the Government of Goa is satisfied that the persons applying represent the majority of each party;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa at Panaji-Goa constituted under section 7-A of the said Act.

SCHEDULE

Whether the action of the management of M/s. Plast-o-Pack, C-1, Corlim Industrial Estate, in refusing to concede the following demands shown in Schedule 'A' annexed hereto and enumerated in the charter of demands raised by the Union by letter dated 1-4-1988 is justified or not?

If not, what relief the workmen are entitled to?

SCHEDULE — 'A'

CHARTER OF DEMANDS

DEMAND No. I:

Pay-scales and Grades:— It is demanded that each workperson be given a Flat-rise of Rs. 200/- per month, w.e.f. 1st April, 1988 and the total of the Basic Salary as on 31st March, 1988 plus the flat rise of Rs. 200/- per month be fitted in the pay-scales given below in the manner fitments are done in the classical mould after correct classification:

Grade	Designation	Pay Scales
I	Helper	Rs. 450-20-550-25-675-30-825 5 5 5
II	Operator	Rs. 600-25-725-30-875-35-1050-40-1250 5 5 5 5

DEMAND No. II:

House Rent Allowance:— It is demanded that each workman be paid a House Rent Allowance at the rate of 15% on the Basic Salary each month.

DEMAND No. III:

Fixed Dearness Allowance: It is demanded that each workman be paid a fixed dearness allowance (FDA) of Rs. 250/- per month at AAICPI 500 (1960-100).

DEMAND No. IV:

Variable Dearness Allowance:— It is demanded that each workperson be paid a variable dearness allowance at the rate of Rs. 1/50 per point rise over and above AAICPI 500 (1960-100). The V.D.A. shall be computed once in every quarter and paid to the workperson at the enhanced rates.

DEMAND No. V:

Travelling and Sundry Allowances:— It is demanded that each workperson be paid a travelling allowance at the rate of Rs. 5/- per day worked.

DEMAND No. VI:

Uniforms and Washing Allowances:— It is demanded that each workperson be issued two pairs of Uniforms and be paid a sum of Rs. 25/- per month.

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Labour).

Panaji, 17th November, 1988.

Order
No. 28/2/88-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa.

Subash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 26th October, 1988.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT
OF GOA AT PANAJI

(Before Shri S. V. Nevagi, Hon'ble Presiding Officer)

Reference No. IT/25/79

Shri B. R. Sawant — Workman/Party I
V/s

M/s V. M. Salgaonkar & Bros. Pvt. Ltd. — Employer/Party II
Workman represented by Adv. P. K. Gude.

Employer represented by Adv. G. K. Sardesai.

Panaji, Dated: 3-9-1988

AWARD

This is a reference made by the Govt. of Goa by its order No. IRM/CON/(48)/79/IT-16/79 dated 21st September, 1979 with an annexure scheduled thereto which reads as follows:

"Whether the action of the management of M/s V. M. Salgaonkar and Bros Pvt. Ltd., Vasco, in terminating

the services of Shri B. R. Sawant, w.e.f. 1-2-1979 is legal and justified;

If the answer be in the negative, to what relief if any, is the aforesaid workman entitled to?"

2. In this Govt. reference u/s 10(1) (d) of the Industrial Disputes Act, 1947 the short point involved is regarding the termination of an employee by the management of Party II, M/s V. M. Salgaonkar & Bros. Pvt. Ltd., Vasco. The Party No. I/employee who was in Government service as a Agricultural Officer had resigned from the services and at the instance of the management of Party II had joined their services as Agro-Horticulturist at a salary of Rs. 455/- per month (consolidated). He was confirmed in the service. His initial appointment as per Exb. A is dated 4th Nov., 1971 and his confirmation is dated 7th Nov., 1972 and the letter of termination is dated January 24, 1979 under which his services were terminated w.e.f. 1st Feb., 1979.

3. The Party I/Workman during the course of his service was supposed to supervise the different agricultural farms owned by Salgaonkars and the properties of Salgaonkars which were spread all over Goa were to be supervised by the workman with the help of workmen as well as under instructions of the Superiors including Nagarshekar who was said to be the immediate superior of Party No. I. Mr. Nagarshekar was ex-Mamlatdar of Bardez and was appointed by the Salgaonkars as Estate Officer in 1975. The Party I was supposed to report to this Nagarshekar during the course of his employment with Salgaonkars. Under instructions of Nagarshekar the workman had done the survey of the forest land at Molem and demarked the same as the Salgaonkars wanted to start the plantation of Sugarcane, Coconuts, pine-apples etc., The survey was completed within 3 months and during the survey the standing trees in the land were cut and the wood was kept in the custody of Nagarshekar according to the workman. There were mango trees which were probably saved from the cutting. During the course of the employment the Party I was to visit different farms which were spread all over Goa and in order to enable him to discharge the duties efficiently the Company had provided him with a two wheelers i.e. Motor cycle and for this purpose he was being given T. A. as well as petrol allowance. Petrol was to be purchased with the pumps with which the Company had credit facilities.

4. The workman claims that the two brothers namely V. M. Salgaonkar and R. M. Salgaonkar who were the Chairman and Vice-Chairman respectively of the Party II Concern fell apart and the heat of this reached some of the employees and Party I claim that he was one of such employee who got his fingers burnt due to the heat generated by the difference of the two brothers. This is only an incidental reference made by the workman to make out a case that he is a victim of the circumstances and Nagarshekar was the person who had exploited the situation by back biting between the two brothers. According to him he tried to meet the two brothers individually and to explain away this to them including the high handedness of the Nagarshekar, Estate Manager who was eating a share out of the estate of Salgaonkars.

5. According to the workman the bickerings between the two brothers led to the dismissal which was initially initiated by a charge sheet Exb. D-1 dated 16-11-78 asking him to explain away the position regarding the consumption of petrol and the purchase of petrol for running the two wheelers. According to the management, the workman had mis-used the facilities given to him and dispute is just regarding an amount of Rs. 217/- as per Memo Exb. D-1. As per this Memo the workman has visited different farms between 16-9-78 to 30-10-78 and during this period he had undertaken 21 trips for which he had claimed T. A. ranging between Rs. 10/- to Rs. 20/- depending upon the distance covered. In addition to this there was the purchase of petrol on a few occasions during this period and in all about 75 litres of petrol then valued at Rs. 277/- was purchased by the workman. According to the Company regarding the first charge, the T. A. of Rs. 217/- was paid to him for travelling instead of the petrol charge for the motor cycle of the Company which he was using. As per the Memo the rules and Standing Orders which are quoted showed that the workman was entitled to get either petrol charges or the travelling allowance and not both. This, according to the Company is a gross irregularity and for this lapse on his part he was directed to offer his explanation to the Administrative Manager giving the details of the petrol and oil purchased by him from the different Petrol Pumps and to show cause why he claimed the travelling expenses when he was taking petrol

during the period. This is how the Memo Exb-D-A dated 16th Nov., 1978 put the enquiry wheel into motion and thereafter a charge sheet was given to him on 16-11-78 and the formality of conducting an enquiry was gone into and the letter of termination was served on the workman terminating his services w.e.f. 1-2-79. This order of the termination from services was challenged by the workman by taking the matter before the Labour Commissioner and in due course after the failure of the conciliation proceedings and report to that effect the Govt. made the reference to this Tribunal and this reference received on 8-10-79 is pending consideration before this Tribunal.

6. In the statement of claim dated 1-12-79 the workman claims that he who was confirmed in the services has been dismissed by observing an empty formality of conducting an domestic enquiry and a workman who was blissfully appointed as an Agriculture Officer in the Govt. department was tempted to join the service in the private firm to look after the fruits of the Company and ultimately he was unceremoniously dismissed from services. According to him the charges levelled against him are petty in nature and the explanation given by the workman about the claim of T. A. was not accepted by the employer and was discharged from services on the lame pretext of loss of confidence even when the workman had given sufficient explanation and proof regarding the petrol drawn on Company's account and which was consumed for travelling while visiting the different farms of the Company. According to him the T. A. was drawn by him in the normal course of his duty and there was nothing illegal in the use of Company property or funds as all around he was travelling for the cause of the Company namely the supervision of the different farms of the Company spread all over Goa. In this way he has challenged the order of termination of services which he claims to be an order of discharge.

7. In reply to the claim statement the Company has filed the written statement through its Manager by name G. Mohonrao and the written statement is dated 5th June, 1980. Initially the Company in the written statement has taken 2 basic objections to the tenability of the Govt. reference namely that the Party I is not a workman within the meaning of Sec. 2(s) of the I. D. Act, 1947. That he was drawing a salary working in the capacity of a Manager drawing salary of Rs. 500/- p.m. and that the Govt. reference is without any jurisdiction or in the alternative in the excess of its jurisdiction. Along with these two basic objections the Company has given the history of the case listing the duties of the workman and showing the circumstances under which the charge sheet dated 16-11-78 was issued to the workman alleging theft, fraud or dishonesty in connection with the business or property of the employer's firm. According to the Company a Motor cycle was provided to the workman for which he was to use Company's fuel. The Company was receiving weekly statements regarding the visit of the workman to different farms and the statement of accounts of petrol and oil consumed for the motor cycle during the relevant period. The figures cover a period of 5½ months and according to the Company the amount of travelling expenses claimed by the workman are disproportionate to the petrol consumed for the vehicle and in this process the workman cheated the Company by claiming double benefits. Consequently the workman was given an option of appearing before the Administrative Manager and to pay back either the travelling allowance or the petrol cost because he was not entitled to claim both but to claim either of the two. According to the Company due to this double claim the company lost confidence in the workman and the enquiry was proceeded with by sending the letter dated 16-11-78 alleging that the workman had committed theft, fraud or dishonesty in connection with the employer's business or property. As per the written statement the workman gave his explanation but the same was not to the satisfaction of the management and so it was directed that an enquiry should be held into the charges. The Enquiry Officer found the workman guilty of the charges "of theft, fraud or dishonesty" in connection with employer's business or property. With these submissions the Company has also given the details of the accounts showing how the account of Rs. 295.40 was claimed in excess and it is claimed that the workman, who, due to the nature of his work had to visit all the estates of the company situated at different places in Goa and who was allotted a Motor cycle, exploited the position and the fraud perpetrated by him was detected by the Company and the Company felt that it was difficult to keep a check on such repeated frauds. The Company therefore lost confidence and trust in the workman who had betrayed the trust reposed by the Company in him. This is how the termination is justified by the written statement.

8. No rejoinder was filed by the workman and the matter was kept on sine-die list by my Predecessor on 13-10-80 on the ground that he was busy with administrative work. Be it so as it may. After Shri Renato Noronha took over in 1982 he framed two preliminary issues on 9-12-82 reading thus:

1. Whether the Employer/Party II prove that the Order of Reference is not maintainable and is bad in law for the reasons mentioned under letters (a) to (c) at page 1-2 of their written statement?
2. Whether the Workman/Party I prove that he is a Workman within the meaning of Sec. 2(s) of the I. D. A., 1947?

It has to be noted here pertinently that these two preliminary issues are framed in view of the specific contention raised by the Party II in the opening paras of the written statement and these were the specific objections taken by the Party II to the tenability of the Govt. reference on the ground that the work of the Party I was in nature of a managerial or supervisory nature and he who was drawing a salary of more than Rs. 500/- per month was not a workman. This objection seems to be with reference to the definition of the workman u/s 2(s) of the I. D. A., 1947. The second objection was regarding the same point namely that the Party I not being a workman the Govt. was not competent to consider his case to raise an industrial dispute on his behalf making a reference to the Industrial Tribunal. These were the two basic objections and the parties went on trial. The endorsement below the Memo on issues (preliminary issues) made by the employer or on behalf of the employer shows that the employer did not press issue No. 2 and he did not want to lead evidence on preliminary point. From the roznama dated 12-12-83 it is shown that the above statement was made on behalf of the employer on that day. Since 12-12-83 the matter stood adjourned for the over all hearing of the matter on merits and the employer's witness Shri Cordeiro was directed to appear by issuing of summons, and he appeared on 28-1-85. On that day the examination in chief of the witness was recorded by Shri G. K. Sardesai for the employer and the matter stood adjourned as seen from the note below the deposition of the witness for recording a finding of the court on preliminary issue 1 and 2 as the issues had been dropped. The case papers show that my Predecessor by a speaking order dated 5-2-85 held that as issue No. 2 had been dropped on account of the employer's representatives the statement in writing, and consequently none of the two preliminary issues should subsist. According to my Predecessor by dropping of issue No. 2 by the employer it meant that the employer did not press at all either of the two preliminary issues concerning the definition of workman within the meaning of Sec. 2(s) of the Act. Consequently taking into consideration the endorsement made by the representative of the employer below the Memo of issues he held that both the preliminary issues 1 & 2 be deemed to have been dropped and the trial was to proceed for hearing the matter on overall merits. This order was announced in open court and the next stage was the continuation of the evidence of Cordeiro who was cross examined by Adv. Gude on behalf of Party I on 15-4-85. Thereafter the evidence of the then Labour Officer of Party II by name Alvaro Antao who was appointed as the Enquiry Officer to go into the charges of Party I Sawant was recorded on 5-8-85. He produced the case papers of the enquiry which are in his hand writing and they are at Exb. E-4.

9. Thereafter the matter was adjourned for the evidence of the star witness Nagarshekar, the Ex-Mamlatdar and the Estate Officer of Party II. The summons were issued to him by an order dated 4-10-85 but actually the summons was not issued till 11-12-85 as Party II had not deposited the necessary bhattach charges. However, on that day the evidence of Shri Venkatesh V. Dessai for the employer was recorded and an undertaking was given on behalf of the employer to produce the witness Nagarshekar on the next date of hearing. On the adjourned date i.e. on 24-3-86 the witness Nagarshekar did not appear and the management again sought summons to be issued to Nagarshekar and the matter was adjourned to 25-6-86 by which time my Predecessor Shri Noronha retired.

10. The matter remained on sine die list till I took over in Nov., '87 and the matter was again revived by issuing notices to the parties and the evidence of management's witness Shri A. Antao was again recorded on 7-1-88 and the evidence of the workman Sawant was recorded on

20-2-88 and his cross examination was completed on 3-5-88 and his witness Shri A. P. Shenoy was examined on 14-6-88 and thus the oral evidence of both parties was over on that day and the matter was argued over on 12-8-88. In the mean time Shri Sardesai for the employer filed an application seeking amendment to his written statement reading thus:

24A "The Employer craves leave to lead fresh evidence in support of the charge in the event this Hon'ble Court is pleased to set aside the enquiry on any ground whatsoever."

By this proposed amendment he impliedly meant to suggest that inspite of the two earlier preliminary issues framed on behalf of the employer and which were dropped even at the instance of the employer, one more preliminary issue regarding the enquiry might arise. Impliedly this proposed amendment went to suggest that the issue may arise. I kept this application "for orders" because the application was filed by the Assistant of Shri G. K. Sardesai by name Adv. Rohit Lobo and the application stood adjourned for hearing Shri Sardesai about the proposed amendment of the written statement. However, on 12-8-88 the matter was argued over on merits of the case and the application dated 5-8-88 will be disposed off by me after passing the award on the main govt. reference namely whether the order of termination of the workman is legal and justified.

11. I have traversed through the history of the protracted litigation which was conducted before three Presiding Officers and the point at issue is obviously the legality or otherwise of the order of termination and I have to dispose off this issue by taking an over all survey of the evidence which is recorded at different stages. I have discussed the facts and circumstances leading to the filing of the complain before the Labour Commissioner giving rise to the industrial dispute which has been referred to by the Government. The main and important aspect to be taken into consideration in this protracted matter is the charge of theft, fraud and criminal misappropriation which is levelled against the workman who worked as Agro Horticulturist with the Party No. II. The terms employed in the charge namely, theft, fraud and criminal misappropriation indicate the criminal act or misbehaviour of a workman who was handling the money and property of the employer. These charges are no doubt very serious charges. However, the main question is whether such serious charges are attracted at all considering the facts which are brought on record and I shall first study these facts to see whether such a serious charge is attracted at all and secondly whether there is sufficient evidence to prove the charges beyond any reasonable doubt because in a criminal court of law such charges would warrant a conviction and imprisonment to jail.

12. The total amount involved is Rs. 277-90 which is equal to 72 litres of petrol (value prevailing in 1978) and/or Rs. 217/- claimed by the workman as travelling expenses. Be it noted here pertinently that the petrol is purchased on 9 occasions while the travelling expenses are claimed for 21 trips at different places in Goa. Even a cursory and casual look at these figures will show that these are all petty amounts and it is as if a pot hole is being created out of a mole. The charges seem to have been inflated even disproportionate to the so called offences committed by any person. The only point made out in the report by the Enquiry Officer Shri A. Antao is that (a) Sawant did not mention all places which he visited in the report Exb. C (b) Sawant failed to justify the consumption of 72 litres of petrol and (c) Sawant is guilty of utilising petrol in a quantity far above that is the justified requirement for company's work. These are the conclusions drawn by him and he says that Sawant is guilty of theft, fraud or dishonesty. Even if definition of these three offences is considered in any common parlance, the charges are not attracted. For committing theft there should be lifting of property of others without consent of that person. This charge is not attracted even by stretch of imagination because the bills are claimed during the course of the official duty. There cannot be dishonesty because he was permitted to claim travelling expenses as well as petrol on company's account. So the charges of theft, and dishonesty meaning fraud go fut. So what remains is criminal misappropriation and the charge will have to be proved by the management by cogent evidence like any other fact. The general and rhetoric say is that the workman could have claimed either of the two things namely petrol for the two wheeler or travelling expenses but not both. There seems to be some truth in the say of the management in this regard in as much as the workman has rather meekly accepted the position in his letter dated 21-11-78 which is at Exb. E-5. In

this letter addressed to the Administrative Manager the workman Sawant states that he discussed the matter in the chamber of the latter on that day regarding 'petrol issue' and 'travelling allowance' and he was prepared to pay back either travelling allowance or petrol costs and he sought directions of the Administrative Manager in this regard. Hence it is implicitly clear that the workman was also aware that there was something in excess which he had claimed and when that excess was discovered after enquiry he meekly submitted and accepted over payment showing his willingness to reimburse the same. Hence it cannot be stated that the case of the management is not altogether baseless but the main question is whether this attracts any of the Standing Orders which are quoted by the management or the Enquiry Officer alleging theft, fraud and criminal misappropriation. This is a clear and simple case of "excess billing" and the person who is caught on the wrong foot has to return the money which he has claimed either knowingly or inadvertently. This was, that way other wise simple matter which could have been considered in the proper context by the management if it had a mind to do so. Supposing that the amount of travelling expenses was not justified the management could have deducted that amount from his next travelling expenses claimed or even from his salary because this is a question of the accountability of a servant who has been saddled with the responsibility of travelling to different Farms of the company in the region of Goa and due to the distance he had to go to those places either by Company motorcycle, his own scooter or by any other mode of travel that was available to him. Considering the volume of work and as many as 21 trips undertaken by the workman it can be stated that the charges levelled against the workman are totally uncalled for and the management rather acted in haste in first issuing the charge-sheet and then appointing the so called Enquiry Officer to conduct an enquiry into the so called charges of theft, fraud and criminal misappropriation. This is in other words similar to the saying that calling a dog mad and then shooting it. For some reasons the management had formed an opinion that the workman was unwanted person and he should be shown his right place and for this purpose the enquiry was instituted against him and the charges or so called charges were held to be proved against him. At the same time it has to be noted that the workman is also not totally having an unblemished part in the whole episode and his actions or to say inactions have brought about the circumstances which have led to a domestic enquiry.

13. Before dealing with the other aspects of the case, I shall incidentally consider the aspect of domestic enquiry about which Shri G. K. Sardesai the learned Counsel for the Employer seems to have something to say. Relying on the oft-quoted authority of the Supreme Court he seems to be making out a case that the issue regarding the domestic enquiry should be exhausted first because in the event of the finding of the Court regarding the Domestic Enquiry going against the management, the management would have a right to lead evidence to justify its action. This question would have arisen if there were specific pleadings regarding the domestic enquiry and if there was a specific issue regarding the domestic enquiry to consider whether the domestic enquiry was fair and impartial and whether due and proper opportunity was given to the workman to plead his case. There is no such issue and the only two preliminary issues which were set up by the management were regarding the jurisdiction and at the last moment the management did not press those issues and the management was prepared to have an overall hearing of the case on merits and we have already noted that the actual recording of evidence has spread over in a span of 3 years and the matter had struck due to the recording of the evidence of Nagarshekar who was alleged to have exploited the whole situation to his own advantage. There was an allegation against Nagarshekar that he had committed fraud in respect of some forest material belonging to the Company and in order to over shadow that aspect he had attempted to make a scape-goat of Sawant to subject him to such an enquiry. The cat would have come out of bag had Nagarshekar been examined as a witness for the management. It is rather interesting to note that Nagarshekar shunned his witness box initially and at a later stage the management itself thought it wise not to examine Nagarshekar for reasons best known to them. This is how this important piece of evidence is kept away from the Court and now the management has filed the application as late as on 5-8-1988 to seek an amendment to the written statement by incorporating para 24A and then to ask the Tribunal to permit them to lead further evidence in the matter. In the span of 3 years nobody had prevented the management in leading evidence of its choice

but the roznama shows that the management had taken adjournment on one count or the other to bring its witnesses and ultimately it closed down its evidence after the last witness was examined and I have already recapitulated the evidence of this witness whose evidence does not throw any light on the main charge of proving the distance or the false claim of travelling expenses or the petrol consumption charges. As repeatedly stated, these are so petty items that they could not have formed a crux of important domestic enquiry instituted against the permanent workman who had put up a service of 9 to 10 years. This is how there is reason to believe that what is alleged against the workman by way of dishonesty is a simple tip of an iceberg and something more was intended but that something more is not forthcoming and we have to just consider the charge of misappropriation of the paltry amount and I find that the management has failed to bring home this charge to the workman by cogent and proper evidence. It would not be just sufficient to say that he had not visited the different places. When the work is entrusted to him the statement that he visited those places and used the vehicle has got to be accepted unless and until the management has some evidence to contravert the statements made by the workman. In the absence of any such evidence the allegation has many loose ends and it cannot be stated that the charge is duly and properly proved or brought home to the delinquent workman. The trend of the so called domestic enquiry shows that the workman was put into the dock and the workman was asked to explain away the things without showing what things he was to explain. I have carefully gone through the two charts regarding the places visited by him and the consumption of petrol to these two charts cannot be reconciled with each other unless the fraud or shortcoming is pointed out by the management. The management has failed to prove this and just the two Standing Orders namely order 20(iv) & 20(xiii) are just quoted to allege the charges of theft, fraud and dishonesty and gross negligence of workman or habitual negligence. The charges as per the standing orders if proved would no doubt attract extreme penalty of dismissal from services. However the agony of the case is that these charges just made a mention of but no steps are taken to prove the charges in detail by giving the instances. Hence what transpires at the conclusion of the facts and evidence is that there is an admission of the workman through his letter addressed to the Administrative Officer wherein he has offered to reimburse the excess claim made by him either on account of travelling expenses or on account of the petrol consumption. Shri Gude for the workman did submit before me that the workman had given this writing under duress or threat. This is a very hard pill to swallow. The workman had served in a responsible position in a Govt. department, had voluntarily resigned from the same and accepted the position of responsibility with Party II. It cannot be said that such a person would meekly submit to the coercion or threat of the management. Hence it has to be stated that the real truth has not come on record and generally this is a matter of accountability and what was to be done was some recovery for excessive billing to be made for the workman and this was to be done in due course of the official conduction of business where there was no criminal element in it and much less the attraction of the two impugned standing orders which I have quoted in the foregoing paras. This is how the entire process conducted by the so called Enquiry Officer is a futile effort to prove the charges and before dealing with the other aspects I shall study the domestic enquiry and what are the powers of the Industrial Tribunal u/s 11A of the I. D. Act.

13. Formerly, the adjudicatory jurisdiction of the Industrial Tribunal dealing with disciplinary cases was merely confined to see whether the employer did not act mala fide in the matter of initiating the action and whether in inflicting the punishment the Enquiry Officer had not violated the rules of natural justice and his findings were not baseless or perverse. In a way this was a negative approach and now the position has been changed after the insertion of Sec. 11A. In the case *FireStone v. Management* reported in 1973 I, LLJ page 278, the Supreme Court has made the following observations: "Tribunal is clothed with the power to re-appraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer established the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence has now given place to a satisfaction being arrived at by the tribunal that the finding of misconduct is correct. The limitations imposed on the powers of the Tribunal by the decision in *Indian Iron and Steel Co. Ltd. case* (supra) can no longer be invoked

by an employer. The tribunal is now at liberty to consider not only whether the finding of misconduct recorded by the employer is correct, but also to differ from the said finding if a proper case is made out. What was once largely in the realm of satisfaction of the employer, has ceased to be so, and now it is the satisfaction of the tribunal that finally decides the matter".

14. Further it has to be noted that the limited jurisdiction as delineated by Indian Iron case was applied only to cases where the disciplinary action of discharge or dismissal of a workman was based on a valid enquiry. In invalid enquiry and no enquiry cases the Tribunal had original jurisdiction to go into the merits of justifiability of the action of discharge or dismissal. In the instant case what is purported to show as domestic enquiry is no enquiry at all or at the most it is an invalid enquiry. I am considering the legal position because the application for amendment for written statement filed by Shri Sardesai on 5-8-88 but no mention of the same is made by him in his exhaustive arguments on 12-8-1988. I do not know if this is an attempt on the part of the management to prepare a ground to say that it had asked for an opportunity to lead additional evidence but the same was denied to it. At the cost of repetition I may say here that the management had full three years to lead whatever evidence it liked and the matter got stuck down for bringing the witness Nagarshekar for evidence but ultimately that attempt was dropped by the Management. Hence it is not known or shown what further evidence the management wants to lead at a belated stage when the workman's evidence was closed on 20-2-1988 and the arguments were heard well after 6 months. So I do not find any substance in the application dated 5-8-88 and the same will be rejected simultaneously.

15. In this regard there are many authorities including the Supreme Court case in Delhi Cloth Mills v. Luddh Budh Singh reported in 1972 I, LLJ page 180. The Supreme Court was dealing with the views of different Courts on the point of opportunity to lead additional evidence. The relevant observations of the Supreme Court read thus: "The question is, whether an opportunity to lead additional evidence had been asked for and had been refused by the Tribunal. In other words, it was for the employer to ask for an opportunity to adduce evidence in support of his action and it was not obligatory duty in law on the tribunal to offer an opportunity to the employer, irrespective of whether he asked for it or not." The above observations focus the point in very clear terms. The employer was never prevented from leading any evidence he liked and there was no question of refusing to consider the request. However, the proposed amendment to the written statement is a futile exercise at protracting a litigation which is already over 9 years old. Hence, upon a careful consideration on the facts on record I hold that there was no proper domestic enquiry at all because the examination of the case papers of enquiry shows that questions were put to the workman asking him to explain away the details of the T.A. claimed and bills for purchase of petrol. They wanted the workman to reconcile the things and there is reason to believe that the workman had taken some excessive payment. This controversy could have been put an end to by asking the workman to reimburse the excessive payment or to cut the same from his future salary or the T.A. Bill. I fail to understand how the wrong calculations or mis-calculation and that too of a petty amount of about 200 rupees amounts to theft, fraud or mis-appropriation attracting the penalty provisions of the two Standing Orders on which the entire process is based. Hence I feel that there was some other reason for which the enquiry was initiated and that reason had not properly come on record and it appears that the witness Nagarshekar has something to do with this. The non-examination of this important witness who was the immediate superior of Party I has left a lacunae in the case of the employer and with whatever evidence which is on record I am inclined to hold that the charge of theft, fraud or dishonesty is not proved by leading cogent evidence. There cannot be any misappropriation because the charge of mis-appropriation pre-supposes entrustment and claim for T.A. or purchase of petrol at Company cost does not amount to this, even by any stretch of imagination.

16. Upon an over all consideration of the evidence on record and the absence of the evidence of Nagarshekar in particular I am inclined to hold that the whole exercise on the part of the Management is a futile one and considering the nature of the charge even if it went to be held as proved the extreme penalty of dismissal is uncalled for and at the

most lesser penalty such as warning or stoppage of increment or any other analogous punishment would have been awarded. I am making these remarks in view of the half hearted admission of the workman regarding the charges of false accounts. There is no doubt some truth in the charge that the workman had made some claim regarding travelling expenses or petrol charges a portion of which might not be justifiable. However, the lapses, if any, or so trivial in nature that the entire process of initially holding an enquiry and then removing the workman from service were totally uncalled for. The letter Exb. 5 written by the workman on 21-11-78 gives a reference to the discussion with the Administrative Manager in his chamber between him and the workman and the workman had shown his willingness to pay back either the travelling allowance or the petrol cost and he sought the necessary instructions from him. A plain reading of this letter shows that this is otherwise a very simple matter as on 21-11-78 the Administrative Manager could have worked out the figure-may be as per his estimation and could have asked the workman to pay of the same and the matter would have ended here only. However, the way and manner in which the further developments have taken place in a rather indecent haste indicate that the decision to remove the workman from the services was almost a foregone conclusion and the formality of following the required procedure had to be gone into and a casual look at the enquiry papers dated 21-12-78 shows that the cursory examination of statement of management's representative Shri A. Cordeiro was recorded who simply speaks about the two lists of travelling expenses and petrol slips but the same does not show how there was misappropriation. The other witness is Mr. M. G. Nagarshekar who has shunned the witness box in the Court. He simply states that he was never aware that Sawant was taking petrol on company accounts. One or two questions are put in the cross examination and then his evidence is closed. Hence, it can be said that the evidence before the Enquiry Officer on behalf of the Management is perfunctory in nature and then there is the detailed examination of Sawant which mainly confines to his replies about the details of the bills which he has given. The Enquiry Officer has then tried to draw inferences from whatever replies he has given about the places visited by him and the distance covered by him. The Enquiry Officer has then jumped to the conclusion that the workman is guilty of utilising petrol in a quantity far above that is the justified requirement for Company's work. Hence solely on the ground that excessive quantity of petrol was utilised by Sawant for his two wheeler, the Enquiry Officer Shri A. Antao jumped to a conclusion that Sawant is guilty of the charge of theft, fraud or dishonesty. Much comments are not needed on this and suffice it to state that the finding is wrong as well as incorrect and the whole process of enquiry is improper and deserves to be rejected. In this context, the Adv. for Party I, Shri Gude has relied upon three authorities of the Supreme Court reported in A.I.R. 1985, (S.C.) Vol. 72. In the authority at page 1121 in the case of Anil Kumar, the Supreme Court has observed that the report of Enquiry Officer must be a reasoned one. In another authority at page 1158 in the case of Chandu Lal the Supreme Court found that the dismissal of the workman was on the ground of loss of confidence and as such he was not entitled to reinstatement but to compensation only. In the 3rd authority at page 1046 in the case of K. C. Joshi, the charge was that of unsuitability and it was held that the enquiry was not held in accordance with the principles of natural justice. In all those cases compensation in lieu of reinstatement was awarded and I feel that in the instant case the workman is more keen on getting compensation instead of reinstatement into service.

It has to be noted pertinently that the dismissal is effected in 1979 and we are to consider that matter after a lapse of over 9 years. A lot of bad blood is created between the employer and employee and I feel that it would be in the interest of both that compensation is awarded in lieu of re-instatement. Further, there is a reason to believe that the workman is gainfully employed since the removal from service but he is not prepared to admit the same. It cannot be expected that a versatile person like the workman who had initially served with the Govt. as a Agricultural Officer would keep quiet after his removal from service. He wants us to believe that he is living on the earnings of his wife who is serving somewhere and he has just remained idle for all these 9 years. Questions are put to him in the cross examinations wherein it is suggested to him that after termination from service he started an establishment in the name and style of 'Bhavani Farm'. It is also suggested to him that he has been carrying on agricultural operations privately and that he possesses a Jeep and a Truck which

are useful to him in his Farm activity. It is also suggested to him that he had given the tyres of the truck for remoulding to Prasad Tyres at Ponda. He admits that he gave a cheque of Rs. 400/- to Prasad Tyres on 9-6-87. He states that he gave the cheque for some other purpose and that too on behalf of his brother who is in Motor business. It is suggested that he has a share in his brother's business. It is also suggested to him that he takes private contracts and that he has taken a contract of Housing Board regarding which an arbitration proceedings is pending in the Civil Court. The workman has no doubt denied all these suggestions but it cannot be said that the Management has invented all these theory just to beat about the bush. It is true that the management should have led positive evidence on the point that the workman is gainfully employed since the termination of his service. Now, after the introduction of Sec. 11A in the Act, the Tribunal has got wide powers to consider the position and it has description to direct reinstatement with or without any conditions or to award any lesser punishment or compensation in lieu of reinstatement. Besides the three authorities relied upon on behalf of Party No. I, wherein compensation is awarded in lieu of reinstatement, I find the direct authority on the point in the case of *Anglo American Tea Co. v. Workmen* reported in 1961 II LLJ. 625 wherein his lordships Wanchoo J. has observed that Sec. 11A vests Tribunal with discretionary jurisdiction to give such other relief to the workman and for some valid reasons it considers that reinstatement will not be fair and proper, compensation in such a case is the solution for unjustified and premature termination of employment.

17. Considering all facts and circumstances of the case I am inclined to hold that the order of termination effected on the workman is not just and proper but by way of relief the award of compensation would meet the ends of justice. I propose to award him compensation at the rate of Rs. 1000/- per year since 1979 which comes to Rs. 10000/-. Additionally I award him Rs. 10,000/- as compensation in lieu of reinstatement. In the result, I pass the following order:

ORDER

It is hereby held that the action of the Management of M/s V. M. Salgaonkar & Bro. Pvt. Ltd., Vasco da Gama, Goa, in terminating the services of Shri B. R. Sawant, with effect from 1-2-1979 is not just and legal.

As relief, instead of reinstatement it is directed that the Management of Party No. II do pay an amount of Rs. 20,000/- (Rupees twenty thousand only) to the workman as compensation for improper termination of service.

In the circumstances of the case the parties are directed to bear their own costs.

Inform the Govt. accordingly about the passing of the award.

S. V. Nevagi, Presiding Officer, Industrial Tribunal.

Finance (Revenue and Control) Department

Notification

No. 5/8/80-Fin(R&C)

In exercise of the powers conferred by section 10A of the Goa, Daman and Diu Sales Tax Act, 1964 (Act 4 of 1964), the Government of Goa being satisfied that it is expedient and necessary so to do in public interest, hereby exempts from the payment of sales tax and additional tax leviable under the said Act on the sales of bus chassis, of bus bodies, of automobile spare parts including tyres, tubes and flaps of buses and of any other article made by any dealer having his place of business within the State of Goa to the "Kadamba Suburban Transport Corporation Limited", Panaji.

Provided that such dealer furnishes to the appropriate assessing authority, a declaration in the form specified hereunder, issued by a duly authorised officer of the Kadamba Suburban Transport Corporation Limited, Panaji.

FORM

(Declaration by the Officer of the Kadamba Suburban Transport Corporation Limited).

I, ... (name) ... (state designation) do hereby certify that the goods sold by ... (name of the dealer), holder of Registration Certificate No. ... under the Goa, Daman and Diu Sales Tax Act, 1964, under cash memo/bill No. ... dated ... for Rs. ... have been purchased by the Kadamba Suburban Transport Corporation Limited, Panaji for its use.

Place: ... (Seal)

Date: ...

Signature: ...

Designation of the person signing the declaration.

By order and in the name of the Governor of Goa.

K. M. Nambiar, Under Secretary (Fin. Exp.).

Panaji, 29th December, 1988.

Finance (Expenditure) Department

Order

No. 6/22/88-Fin(Exp)

In order to attract officers with higher qualifications to the Goa State Accounts Cadre, especially for managing the administration of accounts of Government Corporation and public undertakings it has been decided to grant the following incentives for passing the Institute of Cost & Works Accountants and the Associate Member of the Institute of Chartered Accountants examinations:—

- Six advanced increments to the departmental candidates and fresh recruits qualifying in I.C.W.A. — Final and A.M.I.C.A. Examinations.
- Two advance increments to the departmental candidates and fresh recruit qualifying in the Intermediate stage of I.C.W.A. These increments will get absorbed in the six advance increments granted after qualifying in the Final Exam.

By order and in the name of the Governor of Goa.

K. M. Nambiar, Under Secretary (Finance Exp.).

Panaji, 3rd January, 1989.

Law (Establishment) Department

Order

No. 3-4-85/LD (Part)

Read: Government Notification No. 3-4-85/LD dated 22-11-1988.

Sanction is hereby accorded to the grant of honorarium at the rate of Rs. 400/- per month to Shri A. Venkataratnam presently holding the post of Managing Director of Kadamba Transport Corporation, Panaji appointed as the Member of Administrative Tribunal Goa, Daman and Diu, Panaji with effect from the date of taking over the charge.

The expenditure is debitable to the Budget Head 2070-Other Administrative Services, 800—Other Expenditures, 02—Administrative Tribunal, 14—Professional and Special Services.

This is issued with the concurrence of Finance (Expenditure) Department vide their U. O. No. 6276 dated 28-12-1988.

By order and in the name of the Governor of Goa.

Maria A. Rodrigues, Under Secretary (Law).

Panaji, 9th January, 1989.

Notification

No. 2-3-86/LD(I)

In pursuance of rule 7 of the Goa, Daman and Diu Civil Service (Judicial Branch) Rules, 1985 (hereinafter referred to as the Rules) read with section 16 of the Goa, Daman and Diu Civil Courts Act, 1965 (Act 16 of 1965), the Government of Goa in consultation with the Committee constituted under

rule 7 of the Rules is hereby pleased to appoint Shri Crizanto Fernandes, Advocate, to the post of Civil Judge Junior Division under (Grade II) Goa, Daman and Diu Civil Service (Judicial Branch) Rules in a purely temporary capacity with effect from the date he assumes charge and his appointment will be subject to the decision of the Writ Petition No. 8/88 and 9/88 pending with the High Court of Judicature at Bombay, Goa Bench at Panaji. He will draw his pay in the scale of Rs. 2000-60-2300-EB-75-3200-100-3500.

The appointment is subject to the terms and conditions contained in this Department's Memorandum No. 2-3-86/LD (VI) dated 25-8-1988 and the provisions of the Goa, Daman and Diu Civil Service (Judicial Branch) Rules, 1985.

Shri Crizanto Fernandes should report himself either to the District and Sessions Judge, North or South Goa as may be directed by the High Court. If he fails to join duty within one week of receipt of posting order, this appointment will stand cancelled.

The seniority of the appointee in the cadre of Civil Judge, Junior Division will be fixed later, by the High Court.

By order and in the name of the Governor of Goa.

M. Raghuchander, Law Secretary.

Panaji, 8th December, 1988.

Notification

No. 4-9-84/LD(7)

Read: Government Notification No. 3-5-80/LD dated 6th December, 1985.

In exercise of the powers conferred by clause (7) of section 2 of the Civil Procedure Code, 1908 (Act V of 1908), read with order 27, rule 8 B of the First Schedule to the said Code, and supersession of this Department's Notification dated 6th December, 1985, the Government of Goa hereby appoints Shri S. B. Faria, Assistant Public Prosecutor, Margao also as Government Pleader with immediate effect for the purpose of conducting and defending all cases before the Courts of Dy. Collector cum-Estates Officer, Executive Magistrates, Revenue Courts and City Survey Officer at Margao, until further orders.

By order and in the name of the Governor of Goa.

Maria A. Rodrigues, Under Secretary (Law).

Panaji, 16th December, 1988.

Notifications by the High Court of Judicature, Appellate side, Bombay

No. A.3918/G/88

In exercise of the powers conferred by Section 260 (1) (c) of the Code of Criminal Procedure, 1973 (No. 2 of 1974) the Honourables, the Chief Justice and Judges, hereby invest the following Judicial Officers, with powers under Section 260 of the said Code.

- | | |
|------------------------|--|
| 1. Shri M. D. Kamath | Civil Judge, Sr. Division & Chief Judicial Magistrate, Margao. |
| 2. Shri S. B. Naik | Civil Judge, Sr. Division & J. M. F. C., Vasco. |
| 3. Shri N. S. Kaissare | Civil Judge, Sr. Division & J. M. F. C., Quepem. |
| 4. Shri F. C. Costa | Civil Judge, Jr. Division & J. M. F. C., Sanguem. |
| 5. Smt. Manju Sharma | Civil Judge, Jr. Division & J. M. F. C., Margao. |

High Court, Appellate Side,
Bombay, 2 December, 1988.

R. G. Sindhakar
Registrar.

No. A.3902/G/86

The Honourable the Chief Justice and Judges make the following postings:—

Name and present posting	New posting
1) On repatriation, Shri D. V. Coissoro, District Registrar-cum-Head of the Registrars and Notary, Goa.	Civil Judge, Senior Division and J. M. F. C., Panaji, vice Shri A. D. Salkar.
2) Shri A. D. Salkar, Civil Judge, Senior Division and J. M. F. C., Panaji.	Civil Judge, Senior Division and Judicial Magistrate, First Class, Margao.
High Court, Appellate Side, Bombay, 3 December, 1988	R. G. Sindhakar Registrar.

No. A. 3902/G/86

The Honourable the Chief Justice and Judges make the following postings:—

Name	Place of posting
1) Shri Crisanto Fernandes Civil Judge, Junior Division.	Mapusa (For newly created Court at Pernem).
High Court, Appellate Side, Bombay, 22 December, 1988.	Sd/- (R. G. Sindhakar) Registrar

No. A.3945/G/83

In exercise of the powers conferred by section 13 of the Code of Criminal Procedure, 1973, the Honourables, the Chief Justice and Judges, hereby appoint the following persons to be Special Judicial Magistrates, within and for the local area mentioned against each of their names, for a period of one year with effect from 2nd January, 1989.

The Honourables, the Chief Justice and Judges further confer on these persons, the powers of Judicial Magistrates of the Second Class, to deal with traffic offences punishable under the Motor Vehicles Act, 1939 and the Rules made thereunder.

PANAJI DISTRICT

- | | |
|---|------------------|
| 1. Shri G. G. Kambli,
Dy. Collector,
North Goa. | North Goa. |
| 2. Shri N. B. Narvenkar,
Jt. Mamlatdar,
Bicholim. | Bicholim Taluka. |

MARGAO DISTRICT

- | | |
|---|-----------------|
| 1. Shri G. V. P. Dessai,
Dy. Collector,
Ponda. | Ponda Taluka. |
| 2. Shri B. D. Divekar,
Jt. Mamlatdar, | Salcete Taluka. |
| 3. Shri V. S. Sawant,
Dy. Collector,
South Goa. | South Goa. |

High Court, Appellate Side,
Bombay, 22 December, 1988.

(R. G. SINDHAKAR)
Registrar

GOVT. PRINTING PRESS—GOA

(Imprensa Nacional—Goa)

PRICE—Rs. 1-20 Ps.